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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE FIRST PART* OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 1 February 1990, at 3 p.m.

Chairman: Mrs. QUISUMBING (Philippines)
later: Mrs. REGAZZOLI (Argentina)

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* The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.6/Add.1.

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The meeting was called to order at 3.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1990/3, 4 and 59; A/44/352 and 599)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1990/10, 11 and 58; E/CN.4/1990/NGO/8 and A/44/526)

1. Mr. SENE (Senegal) congratulated Mrs. Quisumbing on her election as Chairman of the Commission, a fine response to the recommendation by the Inter-Parliamentary Union, which had held at Geneva from 10 to 24 November 1989 an important symposium on the subject of the participation of women in the decision-making process in politics and parliament at the national and international levels.

2. The situation in the occupied Arab territories with regard to fundamental human rights was a source of grave concern to the international community, as all the reports dealing with the subject showed, and it had been an ordeal for the United Nations ever since the 1947 partition plan for Palestine and the 1967 Israeli military occupation of a number of Arab territories. History taught, however, that occupation engendered violence and that nothing could overcome a people's determination to recover its freedom and its dignity. That had been demonstrated by the Palestinian people through the intifadah, which was entering its third year and the aim of which was to achieve recognition of the people's inalienable rights.

3. It was quite extraordinary that a people which had known the sufferings and humiliations of anti-Semitism throughout the ages could forget that memory when faced with the heart-rending plight of the Palestinians, some of whom had been condemned to exile and a life of wandering. His delegation wished to stress in particular how vital it was that Israel should be made to respect the provisions of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War. The applicability of that Convention to the occupied Arab territories had been reaffirmed in several General Assembly resolutions and also at the twenty-fifth Conference of the International Red Cross and Red Crescent Movement held at Geneva in October 1986. He took the opportunity to pay tribute to the discreet but essential work being carried out daily by ICRC representatives in the field in providing humanitarian aid to people in need.

4. The question of human rights in the occupied Arab territories was at the very heart of one of the most dangerous conflicts known to the contemporary world, that of Palestine, the ramifications of which extended well beyond the Middle East and which presented a serious threat to international peace and security. It was the Commission's duty, therefore, to help stop the use of violence and brute force which only increased hatred and delayed the onset of peace for the peoples of the region and also, as a consequence, for the Lebanese, who had been immersed in a bloody, fratricidal war for almost 14 years.

5. The current détente in international relations had enabled the United Nations to find peaceful solutions to various regional conflicts and it was thus to be hoped that the efforts undertaken by various parties to reduce tensions in the Middle East and to slow down the cycle of violence might result in a peace process for the region, to which, as the many General Assembly resolutions on the subject testified, the entire international community aspired.

6. His Government was convinced that the problem of human rights in the occupied Arab territories could be resolved through a peaceful settlement to the Palestinian issue and the realization by the Palestinian people of its inalienable rights, including the right to self-determination and the right to establish its own State. Along with other nations, Senegal had always worked towards achieving a climate of peace and harmony amongst the peoples of the region, which was the birthplace of powerful civilizations and cultures. As early as 1985, President Abdou Diouf had emphasized, when addressing the General Assembly, the need to convene as soon as possible an international peace conference on the Middle East. The Palestine Liberation Organization (PLO) had also approved that idea on 15 November 1988 at the meeting of the Palestinian National Council at Algiers and had accepted Security Council resolutions 242 (1967) and 338 (1973), which implied the recognition of the right of all States in the region, including Israel, to live peacefully within secure and recognized borders. Well-intentioned Israelis had also expressed their desire for a peaceful, negotiated solution.

7. His Government was therefore particularly interested in the peace efforts of recent years, which had made a positive contribution to the search for a comprehensive, fair and durable solution that would enable the region to devote itself to the development of its potential and the progress of its constituent nations. It especially welcomed the initiative taken at the Rabat Extraordinary Summit Meeting on 21 May 1989 by the Arab States in support of the Palestinian position, which had also been welcomed by the United States, the USSR, the European Economic Community, the Scandinavian countries and the non-aligned countries. Lastly, he wished to stress the significant role of and praiseworthy efforts made by Mr. Mubarak, the President of the Arab Republic of Egypt and current President of the Organization of African Unity, in order to prepare favourable conditions for an Israeli-Palestinian dialogue.

8. In conclusion, he said that the Commission should do everything in its power to help bring peace to the region on the basis of respect for human rights and of definite and universally recognized safeguards, in accordance with the standards of international law. The decisions that the Commission would take in respect of agenda item 4 should be within that context.

9. Mrs. de LEON ESCALER (Philippines) said that the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/44/352) contained much evidence and information documenting gross and often horrifying violations committed by Israel in the occupied Arab territories. For years, the Palestinians had been denied the most fundamental rights, including the right to life, and it was understandable that they had turned on their occupiers. The Philippines had always believed that Israel should respect the human rights and dignity of the Palestinians and, in particular, recognize their inalienable right to self-determination and to establish their own independent State. The Israeli

military occupation of Palestine was a basic violation of human rights and of the Fourth Geneva Convention of 1949, which stipulated that military occupation was to be considered as a temporary situation giving no rights whatsoever to the occupying power over the territorial integrity of the occupied territories.

10. History had shown that usurpers and occupiers of other peoples' lands had never been the best guarantors of human rights. The rights of Palestinians could be ensured and guaranteed only by the Palestinians themselves. The Philippines had therefore welcomed the historic Declaration by the Palestinian National Council in Algiers on 15 November 1988 proclaiming the independent State of Palestine, and also the acceptance by the PLO of all the relevant United Nations resolutions on the question of Palestine, including Security Council resolutions 242 (1967) and 338 (1973). That acceptance implied the recognition of the right of Israel to exist within secure and internationally recognized boundaries. The Philippines, which had recognized the State of Palestine on 28 September 1989, had always supported the idea of convening an international peace conference on the Middle East under the auspices of the United Nations and with the participation, on an equal footing, of all the parties to the conflict, including the PLO and the five permanent members of the Security Council. The Philippines remained committed to the five principles that might serve as the framework for a comprehensive, just and lasting solution to the Middle East conflict, namely: withdrawal of Israel from all Arab territories occupied since 1967, including Jerusalem; arrangements guaranteeing the security of all States in the region, including the State of Palestine and Israel; resolution of the problem of Palestinian refugees; dismantlement of the Jewish settlements in the occupied territories and guaranteed freedom of access to holy places. The current positive international climate should hasten the search for a negotiated political settlement. Such a settlement should guarantee the human rights of all Palestinians, since the respect for human rights and dignity everywhere was the most solid foundation for world peace and security.

11. Mrs. REGAZZOLI (Argentina) took the Chair.

12. Mr. CASTRIOTO DE AZAMBUJA (Brazil) said that recent developments in the occupied Arab and Palestinian territories showed that much still remained to be done to promote human rights and respect for the right of peoples to self-determination, despite recent great strides towards positive change elsewhere in the world.

13. It had been hoped that the adoption by the General Assembly of resolution 43/176 might open the way to a constructive dialogue between the contending parties in the Middle East, but that hope was being continually undermined by the daily acts of violence against the people living in the occupied territories. The unwarranted use of force by Israeli troops to suppress the intifadah was not only unlikely to yield the desired results, but risked worsening what was already an extremely alarming situation, as could be seen from the Special Committee's reports (A/44/352 and A/44/599). It was also regrettable that Israel had not heeded the request by the Secretary-General for information concerning measures taken to address the concerns expressed in the Commission's resolution 1989/19, as was reported in document E/CN.4/1990/10. The Commission should therefore keep the situation in the occupied territories under review, so that appropriate recommendations

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could be made. In that connection, it was indispensable that the occupying power should observe the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War.

14. It had always been his Government's view that the three main goals that would help to ensure a just, comprehensive solution to the complex problems of peace and security in the region were the recognition of the Palestinian people's right to self-determination, independence and sovereignty over its own territory, the withdrawal of Israeli forces from the territories occupied since 1967 and respect for the right of all the States in the region, including Israel, to live in peace within internationally recognized boundaries.

15. Mrs. QUISUMBING (Philippines) resumed the Chair.

16. At the invitation of the Chairman, Mr. Iacovou, Minister for Foreign Affairs of the Republic of Cyprus, took a place at the Commission table.

17. The CHAIRMAN, introducing Mr. Iacovou, said that he had become Minister for Foreign Affairs of Cyprus for the second time in February 1988 and that he had played a major role in the non-aligned movement, particularly during the February 1983 Conference at New Delhi. He had also chaired the Conference of Ministers for Foreign Affairs held at Nicosia in September 1988. He had been Cypriot Ambassador to the Federal Republic of Germany, Austria and Switzerland and had held important positions in UNHCR.

18. Mr. IACOVOU (Cyprus) recalled that in recent years, and particularly over the last few months, dramatic changes had taken place in Europe. The traditional confrontation and mistrust between East and West had been replaced by co-operation and confidence. That new climate had already had a favourable impact on a number of important regional problems. In the last two years, the international community had witnessed the end of hostilities between Iran and Iraq, the emergence of an independent Namibia, the withdrawal of Soviet troops from Afghanistan, the conclusion of some very important agreements on disarmament and the fall of the Berlin Wall. A summit meeting of the Conference on Security and Co-operation in Europe later in the year not only seemed possible but was expected to set the parameters for new relations between countries and to lay the foundations of the Common European Home. Political analysts agreed that the next decade would be the Decade of Man, dedicated to the concern for human rights and fundamental freedoms.

19. Although it was impossible not to rejoice at the collapse of the Berlin Wall, he could not help thinking of another wall, one that was still standing in Cyprus. He sincerely hoped that the artificial division of the island would soon come to an end.

20. The positive changes in the world situation were primarily due to the efforts made by the two super-Powers, but credit should also be given to the United Nations which, for 45 years, had striven to persuade countries and Governments to respect the principles of the Charter, the standards of international law and the provisions of the universal instruments. The Commission had made a vital contribution as the body responsible, within the United Nations system, for promoting and protecting human rights and fundamental freedoms by setting universally recognized standards and establishing effective mechanisms for their implementation. In recent times,

efforts had been focused on improving the implementation of existing instruments and creating new mechanisms for that purpose. At the European level, implementation mechanisms had also been remarkably strengthened by the adoption of the Concluding Document of the Vienna Follow-up Meeting to the Conference on Security and Co-operation in Europe. The Document gave any participating State the right to ask for the human rights situation in any other participating State to be checked. That new development in the field of human rights, a traditional source of confrontation between East and West, was of particular importance, since it showed that fundamental human rights were of universal concern and that to discuss them was no longer considered, as it had been only a few months previously by some, to be an interference in the internal affairs of States.

21. However, despite positive developments, there were still major international problems affecting human rights, including the threat posed by the existence of nuclear arsenals, the international economic crisis and the external debt situation, the deterioration of the environment, the persistence of apartheid, the sufferings of the Palestinian people and the continued violence in Lebanon. Some problems remained largely because, for political and strategic reasons, the plight of thousands of men and women whose rights were flagrantly violated was ignored. Some situations were deemed important, while others received far less attention.

22. Cyprus was a victim of that double-standards policy. It was a small non-aligned Member State of the United Nations, the Council of Europe, the Conference on Security and Co-operation in Europe (CSCE) and the Commission on Human Rights, and had been partly occupied since 1974 by a powerful neighbour, whose acts continued to escape scrutiny, although they did not comply at all with any of the relevant General Assembly or Security Council resolutions, nor with those of the Commission, which had called inter alia for the full restoration of all human rights to the population of Cyprus, with particular reference to the refugees.

23. Yet, since gaining its independence in 1960, the Republic of Cyprus had pursued a consistent policy of promoting the human rights of all its inhabitants without any discrimination whatsoever. The treaty by which the State had been established imposed upon it an international obligation to secure to everyone within its jurisdiction human rights and fundamental freedoms comparable to those enshrined in the 1960 European Convention on Human Rights and the 1952 Protocol. The Constitution of Cyprus contained a bill of human rights and fundamental freedoms which was even more generous than that of the European Convention. The second part of the Constitution covered a whole range of civil and political, social, economic and cultural rights which made the Republic a modern State with an advanced welfare system.

24. Moreover, the Constitution provided for many effective remedies to ensure the implementation of its provisions. Thus, article 35 provided that the legislative, executive and judicial authorities were bound to ensure, within the limits of their competence, the effective application of the provisions relating to human rights and fundamental freedoms. Article 146 provided that, if a person's human rights guaranteed by the Constitution or any Act (including the international instruments adopted by the Republic) were violated by any executive or administrative decision, act or omission, that person could resort to the Supreme Court for the decision to be annulled.

25. Cyprus had ratified or acceded to the main international human rights instruments: the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention relating to the Status of Refugees. It had also signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the ratification procedure was in process. By virtue of article 169 of the Constitution, the international instruments ratified or acceded to by Cyprus were incorporated into the Republic's domestic law and had superior force to all other laws, apart from the Constitution. The above-mentioned human rights instruments could therefore be invoked before any courts or administrative authorities.

26. As a member of the Council of Europe, Cyprus had ratified the European Convention on Human Rights, and had therefore accepted the mechanism for examining complaints by other States or individuals, groups of individuals or non-governmental organizations, provided for in that instrument. Cyprus had also accepted articles 25 and 45 of that Convention. It was also fully committed to the provisions of the Final Act of the Conference on Security and Co-operation in Europe; its human rights record was therefore open to scrutiny and it was entitled to examine the situation in other participating States.

27. The Republic of Cyprus had made those important strides in the field of human rights, whilst faced with the invasion and occupation of 37 per cent of its territory. A significant proportion of its people had been expelled from their homes and were still denied the right to return. There was an army of occupation of some 35,000 men. The seriousness of the situation had delayed the adoption of appropriate legislation in certain fields. One such problem that was often cited was that of conscientious objectors; however, a bill providing for an alternative service for such objectors had been submitted by the Government to the House of Representatives.

28. The illegal military occupation of a large part of the national territory by Turkey was both the source of human rights violations and the obstacle to their redress. Cyprus, which accepted that its acts should be examined by international bodies, as had been said earlier, had requested that the same should be true of Turkey. It had made three applications on that subject to the European Commission of Human Rights under the European Convention. The Commission had twice ruled that Turkey had violated fundamental articles of the European Convention. The ruling on the third application would doubtless be the same.

29. Unfortunately the findings of the European Commission had not been heeded. The 180,000 Greek-Cypriot refugees were still being forcibly prevented from returning to their homes in the occupied zone. The fates of 1,619 missing persons were still unknown. The occupying power still prevented freedom of movement and settlement. The city of Nicosia was still a divided city in a Europe which was progressing rapidly towards integration and the construction of the Common European Home.

30. In September 1989, the current President of Turkey, Mr. Turgut Ozal, then the Prime Minister, in his address to the Parliamentary Assembly of the Council of Europe had said: "strict adherence to the internationally accepted norms of conduct concerning respect for human rights and the fundamental freedoms of the individual is the only basis on which we can build and promote

stable international relations". How true! If Mr. Ozal backed up his words with actions, the Cyprus problem would be solved promptly and permanently. It was because Turkey refused to restore the fundamental rights and freedoms of Cypriots, particularly those of the refugees, and to enshrine the pre-eminence of those rights in the constitutional arrangements under discussion, that no progress had been made towards a solution. The Republic of Cyprus could not accept limitations on the fundamental freedoms of individuals, which would be tantamount to a system of apartheid. It asked that the human rights and fundamental freedoms of the individual be respected, and counted on the full support of the Commission in that regard.

31. After being thanked by the Chairman, Mr. Iacovou, Minister for Foreign Affairs of the Republic of Cyprus, withdrew.

32. Mrs. REGAZZOLI (Argentina) said that her country had many historical ties with all the parties involved in the Middle East conflict and it was consequently increasingly concerned by developments in the field of human rights in the occupied Arab territories. At the most recent session of the General Assembly, Mr. Carlos Menem, President of the Argentine Republic, had reaffirmed the need for an urgent solution that would respect the rights of all parties to self-determination and to live within secure, recognized boundaries, and had declared that those rights belonged both to the Palestinian people and to Israel.

33. The report contained in document A/44/599, submitted by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, confirmed that the civilian population in the occupied Arab territories was being persistently repressed. Chapter IV, section A, stated that Israeli defence forces had started using new types of plastic bullets against demonstrators; the authorities had admitted that that was true and had declared that the bullets were being used only to contain demonstrations which threatened to become uncontrollable. Her delegation could not but deplore such actions and statements. It was also dismayed by the list of persons given in the report who had died as a result of the repression; moreover it could be seen that most of the victims had been very young. Chapter IV, section B, mentioned many cases of administrative detention and preventive detention of Palestinian citizens. However, the sentences given to Israeli soldiers accused of serious offences were very light.

34. In Chapter IV, section C, it was stated that a number of deaths had been caused because injured people had been prevented from being taken to hospital in Israel. The report also mentioned the continued practice of collective punishment, the demolition of homes, the isolation of certain areas and economic sanctions. The authorities temporarily confiscated cars belonging to Arab residents, stating that the practice was in conformity with international law. On the subject of the treatment of detainees, the report A/44/599 referred to deaths from suffocation during interrogation, the imprisonment of minors between 14 and 16 years of age in a military prison and the use of weapons against prisoners who had demonstrated after visits had been suspended. The report also described the continued process of annexation and colonization with the establishment of eight new settlements (para. 267).

35. At the origin of such serious violations of human rights was the refusal to allow the Palestinian people its inalienable right to self-determination. Her Government thought that the current international climate, which favoured détente and co-operation, should encourage Israel to make decisive efforts to settle the situation and the Middle East conflict in general. The solution to the conflict should be based on an agreement among all the parties concerned, including the Palestine Liberation Organization (PLO), which would provide for the recognition of the inalienable right of the Palestinian people to self-determination, the unconditional withdrawal of Israel from all the territories occupied since 1967, as called for in Security Council resolution 242 (1967), the right of all States in the region, including Israel, to live in peace within secure, internationally recognized, boundaries and the establishment of a special régime for the city of Jerusalem in conformity with General Assembly resolution 303 (IV).

36. To that end, her delegation was in favour of an international peace conference under United Nations auspices. It also hoped that Israel would receive the Special Committee and engage in a fruitful dialogue with the representative organs of the international community. If the good will of the parties involved and the co-operation of the international community permitted even the principle of coming to an agreement to be accepted, an important step would be made towards the enjoyment of human rights in that region.

37. Mr. ROA KOURI (Cuba) recalled that 1990 marked the thirtieth anniversary of the adoption of the historic resolution 1514 (XV), which contained the Declaration on the Granting of Independence to Colonial Countries and Peoples. The authors of that declaration had not had in mind just the traditional forms of colonialism: they had intended the declaration to cover all forms of alien domination or foreign occupation as well. It was in the same spirit that, since 1975, the Commission on Human Rights had been dealing with the right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation.

38. The international media sought to paint an almost idyllic picture of decolonization. However, it was his belief that the truth was not so clear-cut. Nevertheless, there were certainly grounds for rejoicing at Namibia's gaining of independence and Cuba was proud of the contribution it had made by joining ranks with the armed forces of Angola and SWAPO to inflict on South Africa a military defeat, which had ultimately brought that country to the negotiating table and had permitted Security Council resolution 435 (1978) to be applied.

39. His delegation welcomed the adoption by the General Assembly of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries (resolution 44/34 of 4 December 1989). Cuba had itself been attacked by mercenaries at Playa Girón in 1961, an attack organized and financed by the Government of the United States of America. His delegation was certain that the new legal instrument would be effective in stopping the use of mercenaries to prevent peoples from exercising their right to self-determination and to destabilize sovereign States such as Nicaragua.

40. On the other hand, as far as traditional colonialism was concerned, the Committee of 24 was dealing with what was still a long list of territories. He drew particular attention to the fact that the list included Puerto Rico, which was incontestably part of the Latin American world and should be able to

free itself from any foreign guardianship. His Government also supported the right of the Sahrawi people to self-determination and independence in accordance with resolutions adopted by the United Nations and the Organization of African Unity, the right of the majority black population of South Africa to free itself from the yoke of apartheid, the right of the Lebanese people to liberate the southern part of its territory from foreign occupation, and the right of Syria to regain control of the ursurped territory of the Golan Heights. Furthermore, the just cause of the Palestinian people was unconditionally supported by his Government.

41. In his report on the use of mercenaries (E/CN.4/1990/11), the Special Rapporteur of the Commission had clearly shown that mercenaries were widely used to overthrow Governments and to restrict the right of peoples to self-determination: the cases of Benin, Seychelles, Maldives and the Comoros were clear proof of that; there were also the notorious and sinister acts of gangs operating in Mozambique and Angola with the help of South Africa and the United States. The activities of the contras in Nicaragua, which were controlled by the CIA and the Pentagon from Washington, were also discussed in Mr. Bernales' remarkable report. The Commission therefore knew how and by whom the rights of peoples in the third world were violated - almost always in the name of "freedom and democracy", if not for the sake of "national security" - in order to impose on those people servile Governments, prepared to surrender their nations' wealth and resources to the voracity of transnational capitalist enterprises.

42. Despite the importance of the aforementioned facts, the most notable event of the previous year, in terms of flagrant, large-scale violations of human rights and fundamental freedoms through foreign aggression aimed at preventing the right to self-determination from being exercised, had undoubtedly been the military invasion of Panama by the United States and its army's continued occupation since 20 December 1989 of a small, non-aligned Latin American country. All manner of pretexts had been given to justify that occupation, from the "fight against drug-trafficking" to the "defence of democracy", via the well-worn, mystifying argument that it was necessary in order to "protect the lives of United States citizens in Panama". None of those excuses could conceal that it was a gross violation of the fundamental principles of international law, of the Charter of the United Nations and also of the Organization of American States.

43. The attack, the seventh against Panama, was yet another in a long line of attacks perpetrated against Latin American countries by the Government of the United States, which used "big stick" and gunboat policies at a time when there was supposedly a relaxation in relations between the super-Powers and with total disregard for international public opinion, particularly the opinion of the Latin American countries. He had been amazed to read in a bulletin produced by the United States mission in Geneva that the invasion of Panama had furthered self-determination and that the "operation" had been carried out in order to promote human rights.

44. His delegation was of the opinion that the Commission could not remain silent at such an outrageous attack or at the specious and cynical arguments put forward to justify it. To accept that a State could invade and militarily occupy another State in order to "promote human rights" would be manifestly to degrade the term and return to the law of the jungle. On 9 December 1989, the General Assembly had responded to the destructive actions of the United States

by adopting resolution 44/240, close on the heels of similar action by the OAS. The European Parliament had also expressed its firm disapproval. The Commission should assess the consequences of the uprovoked assault and of the continued military occupation of Panama with respect to the denial of fundamental human rights and freedoms, which both actions represented for the people of Panama. The Commission could not fail to act at the thought of the thousands of people who had died, were missing or had been injured as a result of the so-called "operation" carried out by the United States in Panama "in order to defend human rights".

45. His delegation thought that the Commission should be equal to the situation. It should congratulate the Special Rapporteur on the use of mercenaries on the quality of his report and decide that he should continue to inform the Commission on that important question; a measure which was all the more necessary because the Convention which had been recently adopted did not provide for any mechanism to monitor events following operations carried out with the help of mercenaries. His delegation was prepared to take the initiative or to associate itself with any initiative along those lines.

46. Mr. AMOO-GOTTFRIED (Ghana) said that one of the major achievements of the United Nations since its inception had been to enable oppressed peoples to exercise their right to self-determination, particularly in Africa, Asia and the Caribbean. With the international community's increasing awareness of the right to self-determination, the status of several nations had changed over the previous three decades, and there was reason to hope that the changes would also affect those enclaves that still remained. Regrettably, there were still areas where the peoples continued to be denied their basic human rights, particularly the occupied Arab territories and Palestine, which had been under Israeli occupation for more than 20 years.

47. There had been no improvement in the situation in the occupied Arab territories and, in fact, it had deteriorated, due largely to the persistent refusal of one of the parties to the conflict, Israel, to co-operate with the international community in the search for a lasting solution. His delegation was very concerned by the fact that there had been no discernible improvement in the situation in the occupied Arab territories and Palestine in spite of the atmosphere of the previous year, which had been conducive to a peaceful settlement. When, in November 1988, the Palestinian National Council had taken the historic decision to accept Security Council resolutions 242 (1967) and 338 (1973) and the United States Government had decided to open a dialogue with the Palestine Liberation Organization (PLO), Ghana and many other countries had thought that the long-awaited breakthrough had arrived, but their hopes had been disappointed.

48. Meanwhile, the situation in the occupied Arab territories and Palestine continued to deteriorate daily, as the people strove to liberate themselves, while the occupation forces tried to impose their will through repression. The report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories showed that there had been no reduction in the violence between August 1988 and August 1989. On the contrary, there had been an ever-increasing number of cases of harassment, administrative detention, imprisonment, repeated and disproportionate use of firearms and tear-gas, deportation of individuals and the use of military force against civilians, not to mention the destruction of property and many other oppressive methods.

49. It was a well-known fact that, in the territories under Israeli military occupation, any soldier or policeman had the right to detain an individual if he believed he had "grounds to suspect" that the person in question had committed an offence. The law did not specify the nature of the infraction, which a person might be suspected of having committed or planned. In other words, Palestinians living in the territories occupied since 1967 had no means of knowing why they might be arrested or detained. Anyone could be taken into custody on suspicion of an undefined offence. Such practices were not only contrary to the Universal Declaration of Human Rights, but also to international humanitarian law and world public opinion; his delegation therefore called on the Israeli authorities to cease such practices forthwith.

50. The uprising that the world had been witnessing in the occupied Arab territories and Palestine for three years showed the extent to which the people there were resolved to take their destiny into their own hands and bring an end to the untold suffering which they had had to endure for many years at the hands of the occupying forces. The intifadah had amply demonstrated that the enjoyment of the right to self-determination was closely related to peace, security and stability in the Middle East and other regions. As long as a people continued to be denied that right and other fundamental human rights, there would be nothing but strife and conflict in a region. The situation in South Africa and, until recently, Namibia bore ample testimony to that fact. For the Government and people of Ghana, the right of the peoples of South Africa to self-determination and the dismantling of apartheid were of paramount importance and his delegation fully supported any measures that the community of nations might take to eradicate that odious system. It would be an event of historic importance if the Pretoria régime were to free Nelson Mandela so that he might address the Commission; the current rapidly changing international climate gave reason to hope that that would be possible.

51. In recent years, there had been a general relaxation of tension, while dialogue and co-operation had replaced confrontation, paving the way for the peaceful resolution of several regional conflicts. It was the hope of his delegation that the first year of the new decade would see the leadership in Israel take the historic decision to accept the call of the international community to join in the search for a comprehensive, just and lasting solution to the Middle East conflict by way of an international conference under the auspices of the United Nations and with the participation of the five permanent members of the Security Council and all the other parties concerned.

52. Mr. RATSIRAHONANA (Madagascar) said that his delegation saluted the martyrs and heroes of the intifadah, who were prepared to make any sacrifice in order to gain greater freedom and more extensive rights. It also paid tribute to the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, whose detailed report enabled the Commission to make a fair assessment of the outrages being committed in the occupied Arab territories. It was impossible for any individual or State that loved freedom and respected human dignity to remain indifferent to the sufferings of the Palestinian people or restrain its indignation at practices which sickened the human conscience.

53. His Government supported the Palestinian people in its fight to regain its freedom and was indignant at the violations by Israel of the rights of peoples and human rights in the occupied territories. The Israeli authorities were deaf to all the resolutions and recommendations by international organizations intended to guarantee the exercise of human rights in the occupied territories. However, that strategy was no longer successful and, through negotiation and the good will of the parties formerly involved in the conflict, there had been unquestionable progress on particularly burning issues. His delegation very much hoped that the current détente would also encourage a dialogue between the parties involved in the Palestine question, and it thought, in particular, that the climate was suitable for convening, in the near future, an international peace conference on the Middle East. In any case, the use of force would not break down the determination of a whole people to live in independence. Pressure would have to be increased on the Israeli authorities and the Commission should make a formal commitment to put an end to practices that were unworthy of the last decade of the twentieth century.

54. Mr. ZHAN Daode (China), speaking on agenda item 9, said that developments in post-war international relations showed clearly that the right to self-determination of countries and peoples was an integral part of the concept of human rights and constituted the basis and prerequisite for the enjoyment of other human rights and fundamental freedoms. It went without saying that, if a people had not yet won independence or if a sovereign State was under attack from or occupied by a foreign power and deprived of its right to self-determination, the economic prosperity and development of that country were out of the question, not to mention the respect for human rights and fundamental freedoms of the people.

55. The essence of the right to self-determination lay in winning and safeguarding national independence and the liberation of the people. In accordance with the right to self-determination, the international community should respect the sovereignty of all States and oppose the interference by foreign forces in the internal affairs of any State. The principle of self-determination meant that the domestic affairs of a country should be handled by its people, without any interference whatsoever. Any intimidation of the weak by the strong, under whatever pretext, through political pressure, economic sanctions or by force of arms, would be a gross violation of the Charter of the United Nations and the principle of national self-determination.

56. When discussing the question of the enjoyment of the right to self-determination, there were grounds for his delegation to be relieved that some regional hot-spots had cooled down, that dialogue was increasingly replacing confrontation and that a number of outstanding issues were either moving towards a solution or there was, at any rate, a glimpse of hope of a solution. Nevertheless, there were still cases also of gross interference in the internal affairs of countries and violations of the right to self-determination.

57. China had been shocked by the scale of the recent armed invasion and military occupation of Panama by the United States and condemned that act as a flagrant violation of the standards of international law and the principles and purposes of the Charter. It had violated the independence and sovereignty of Panama, caused heavy loss of life and damage to property and upset social and economic life. Moreover, it posed a great threat to peace and security in

Central America and the world at large and went against both the current trend of détente in the international situation and the aspirations of the peoples of the world. His Government had always maintained that relations between countries should be governed by the five principles of peaceful coexistence. It had always opposed interference in the internal affairs of other countries, particularly by military means. Accordingly, it called upon the United States to put an immediate end to its acts of aggression, withdraw unconditionally all its troops from Panama and respect the independence and sovereignty of the country.

58. The question of Cambodia was also the result of foreign aggression. It was his delegation's view that a just and reasonable solution to the problem depended above all on the genuine and total withdrawal of Vietnamese armed forces from Cambodia under strict and effective international supervision and, during the transitional period before the general election, the establishment of a provisional coalition Government headed by Prince Norodom Sihanouk and made up of representatives of the four parties, so that the people of Cambodia might exercise their right to self-determination without any outside interference. In that way, Cambodia could become a truly independent, peaceful, neutral and non-aligned country.

59. Namibia had finally entered the path of independence and self-determination as a result of the general election that had been successfully organized. An event of such historic significance was a sign that the African continent would soon be completely decolonized if, in particular, the South African authorities adhered strictly to their commitments.

60. The Palestinian people were still being deprived of their right to self-determination and other human rights. Despite initiatives taken over the previous 12 months by various parties to the conflict, there had been no truly substantive breakthrough in the Middle East peace process, because the crux of the problem lay in the intransigence of the Israeli authorities and the support they received from certain major Powers. His Government had always supported the Arab and Palestinian peoples in their just struggle to recover their lost territories and to exercise their right to self-determination. It also backed their proposals for a political settlement to the Middle East question and thought that the holding of an international peace conference on the Middle East under United Nations auspices with the participation of the five permanent members of the Security Council and all concerned parties might help reach such a settlement. To that end, the parties concerned should open a direct dialogue. The international community should continue its efforts to enable the Palestinian people to exercise its right to self-determination and to find a comprehensive, fair and lasting settlement to the Palestinian issue.

61. Mr. MARKIDES (Cyprus) said, on the subject of agenda item 4, that the Republic of Cyprus had always supported the inalienable rights of the Palestinian people, including its right to self-determination and the establishment of its own independent and sovereign State. His Government had welcomed the Algiers Declaration and the proclamation of the State of Palestine, which it considered to be an historic step that might lead to a just and comprehensive settlement of the Middle East problem in accordance with the principles of international law, the Charter of the United Nations,

the relevant resolutions of the United Nations and the declarations of the non-aligned movement. It was thus a great disappointment to see that those initiatives had so far remained without a response.

62. The endless list of gross violations of human rights in the occupied Arab territories, including Palestine, South Lebanon and the Golan Heights, was a tragic but unfailing reminder of the fact that the military occupation of those territories, itself a gross violation, led to the denial of all human rights and fundamental freedoms. The occupation was neither justifiable nor sustainable in the opinion of his Government, which had already opposed measures adopted by the Israeli authorities in the occupied Arab territories, such as systematic deportations, indiscriminate killings, raids on villages, the isolation of cities from the outside world and repression against educational, religious and cultural institutions. His Government was totally opposed to the colonization of the occupied territories through the establishment of Israeli settlements and the transfer of settlers from Israel. That policy was designed to alter the demographic structure of the occupied territories and would have catastrophic consequences. It also constituted a violation of international law. Cyprus was very sensitive to such practices, since it was suffering itself from similar policies.

63. The Special Committee's report gave a chilling account of the tragic situation facing the population of the occupied Arab territories and the violations of human rights that were being committed there. It also exposed the refusal of the Israeli Government to co-operate with the Special Committee. He called upon the people of Israel, themselves victims of centuries of persecution, to recognize the futility of a policy that denied an entire nation the right to live in its own homeland in peace and dignity.

64. The problems of Palestine and Lebanon were of particular concern to Cyprus, since peace and security in the region depended on their resolution. His Government welcomed the launching of an Israeli-Palestinian dialogue, but strongly regretted the deteriorating situation in the occupied territories, where the Israeli authorities continued to react to the intifadah by killing, wounding and arresting participants on an increasingly large scale. It was essential to initiate effective negotiations on the basis of Security Council resolutions 242 (1967) and 338 (1973), taking fully into account the legitimate rights of the Palestinian people. In that respect, tribute should be paid to the statesmanship displayed by President Arafat in the search for a just and comprehensive settlement of the Palestinian problem which would both recognize the natural rights of the Palestinian people and guarantee the security of all States in the region. It was to be hoped that Israel would see reason in the interests not only of the region, but also of mankind as a whole.

65. The occupation of part of the territory of Lebanon by Israel continued to be of concern to his Government, which over the last few years had provided all possible humanitarian assistance to the large numbers of Lebanese fleeing their country. The Republic of Cyprus continued to support the independence, sovereignty, territorial integrity and unity of Lebanon, and demanded the complete withdrawal of all Israeli forces from Lebanese territory. An international peace conference on the Middle East under United Nations auspices should help resolve the question of Palestine in a manner conducive to a comprehensive, lasting and just solution to the Middle East crisis. All the parties involved, including the Palestine Liberation Organization, should

be able to participate in that meeting, in order to safeguard the rights of all States and peoples in the region, particularly their right to live within internationally recognized and secure borders. In the meantime, the United Nations - and particularly the Security Council as the organ primarily responsibile for the maintenance of international peace and security - could play a very important role in bringing about peace in the Middle East.

66. For its part the Commission on Human Rights should set forth once again the principles and standards necessary for the restoration of and respect for human rights and fundamental freedoms in the occupied Arab territories and should participate in the overall effort to bring about peace, justice and freedom in that long-troubled area of the Middle East. To that end, it was necessary to stress the importance of the principles of respect for the human person and his dignity.

67. Mr. KAMINAGA (Japan), speaking on agenda item 9, recalled that one of the fundamental principles of the Universal Declaration of Human Rights, the fortieth anniversary of which had recently been commemorated, was equality and freedom for all, without distinction as to race, sex, language or religion. Unfortunately, although the international community had endorsed that principle on many occasions, there were still many parts of the world where policies were based on prejudice and discrimination; that was the case particularly in southern Africa, Afghanistan and Cambodia.

68. Apartheid was an institutionalized system of racial discrimination that denied basic human rights and fundamental freedoms to the majority of the people in South Africa. When, in 1989, Mr. De Klerk had been elected President of the Republic of South Africa, the Japanese Government had expressed the hope that he would make the abolition of apartheid his goal and encourage a wave of peaceful and democratic change in his country. There had been some developments in that direction, but they had not gone far enough; it was not a question of reforming apartheid but of abolishing it. His Government had therefore been urging the Government of South Africa to meet the demands of the international community by bringing about fundamental reforms: by lifting the state of emergency, releasing political prisoners including Nelson Mandela and lifting the restrictive measures against anti-apartheid organizations. It called on Pretoria to enter into dialogue with black leaders in order to establish a non-racial democratic Government in South Africa. In that connection, it was appropriate to recall the fundamental principles for a negotiated settlement to apartheid, contained in the Declaration adopted at the sixteenth special session of the General Assembly. His Government supported that Declaration and hoped that the international community would unite to exert continued pressure on the South African Government so that it would take positive steps to abolish apartheid.

69. With regard to the universal realization of the right to self-determination, it was essential to continue monitoring carefully recent developments in certain parts of the world. There had been some progress. Namibia's transition to independence was particularly welcome, since that historic and symbolic event marked the attainment of the objective of decolonizing the African continent. The United Nations was making a great effort to ensure that the transition proceeded smoothly. It had been an important demonstration of the Organization's ability to play such an eminently useful role and its effectiveness had won broad international

acclaim. Japan, for its part, consistent with its desire to co-operate in efforts to bring about and preserve the right to self-determination and peace, had seconded some 30 people to the United Nations Transition Assistance Group (UNTAG) to monitor the constituent assembly elections of November 1989 in Namibia. Most regrettable, however, had been the news of the death in Namibia of Dr. Yo Kubota, an officer of the Centre for Human Rights, who had devoted himself to the cause of human rights and that of independence for oppressed people. It was to be hoped that, once independent, Namibia would become a politically stable and economically prosperous society. Japan would endeavour to give it every support in that process.

70. It was deplorable that, in Afghanistan, fighting was continuing among the Afghan people themselves even after the withdrawal of Soviet forces. Establishment of a broad-based Government reflecting the popular will of the Afghan people was absolutely essential for the attainment of true stability. His Government earnestly hoped that the Afghan people would unite and co-operate to rebuild their country, and it was co-operating actively with them, through the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes relating to Afghanistan, by providing personnel needed for medical assistance and infrastructural improvements to facilitate the repatriation of Afghan refugees.

71. His delegation had participated actively in the International Conference on Cambodia held in Paris in August 1989 with a view to finding a comprehensive political settlement for that country, which had suffered so much for so many years, that would free it from foreign intervention, allow it to exercise its right to self-determination and would restore to it peace, liberty and democracy. As the Prime Minister of Japan had stated to the General Assembly at its forty-fourth session, while the conference had not resulted in the comprehensive political settlement that everyone had hoped for, nor in an agreement on the establishment of an international control mechanism, there had been a number of significant developments, including the dispatch of a fact-finding team. His Government was committed to extending further co-operation to the people of Cambodia so that they might exercise their right to self-determination. On a more general note, his delegation wished to reaffirm its intention of helping the international community to promote human rights and to enable the right to self-determination to be exercised throughout the world.

72. Mr. MARKIDES (Cyprus), speaking on agenda item 9, said that the right to self-determination was the cornerstone for building peaceful and friendly relations and co-operation between States, and also a vital element of modern democracy. The product of a long history of philosophical, political, sociological and legal influences, the right to self-determination had given rise to the principles of the protection of the freedoms of the individual and of the full enjoyment of human rights. Moreover, it was the underlying principle behind the concepts of peace and international order.

73. The anti-colonialist struggle waged by oppressed peoples under alien domination or foreign occupation to gain their independence had given a new, more dynamic meaning to self-determination and had connected that right to the democratic principle of majority rule (General Assembly resolution 860 (IX)). Self-determination had been inseparably linked to the national history of most Member States of the United Nations and was in full harmony with the principle of non-intervention. It thus ran counter to the old-fashioned ideas of

absolute sovereignty, spheres of influence or "national determinism". The persons responsible for drafting the Charter of the United Nations and, later, the International Covenants on Human Rights had demonstrated their conviction that the principles of equal rights and self-determination of peoples were essential for friendly relations between nations by attributing fundamental importance to that right at both the internal and the external levels.

74. At the internal level, the collective realization of the right to self-determination under conditions of freedom, equality, non-discrimination and respect for human dignity constituted the basic framework within which a people could pursue its development and promote human rights and fundamental freedoms in all spheres of life.

75. The right to self-determination and the concept of democracy were inseparable. Some political philosophers had attempted to erect systems of thought attributing absolute rights to particular political entities, but their application in practice had led to the denial of individual rights and the establishment of the "principle" that might was right.

76. At the external level, a people which exercised its right to self-determination in the context of an independent and sovereign State should be free to determine its political status on the international chess-board.

77. There was also a dynamic aspect to the right of peoples to self-determination, and the vicissitudes of international life showed that the right, once exercised, did not cease to exist; it continued to exist as the basis for the expression of free will by a sovereign people, which could determine at any moment its internal or external status. In that connection, the eighth principle of the Helsinki Final Act was particularly pertinent.

78. Eminent jurists and the United Nations recognized that the right to self-determination belonged to the people as a whole and as a collective unit. It was not the right of a fragment or segment of a people, whatever criteria were used, and "undemocratic" self-determination was clearly a contradiction in terms. Decisions regarding self-determination were taken by the majority and, in the final analysis, it was the individual that benefited from them.

79. Owing to its very nature and content, the right to self-determination could undoubtedly be misinterpreted and distorted in order to suit ill-conceived political expediencies, secessionist movements or expansionist aims at the expense of the political unity and territorial integrity of independent and sovereign States. The main international instruments, such as the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States, the International Covenants on Human Rights and the Helsinki Final Act all guaranteed the territorial integrity and political unity of such States. They proclaimed illegal any attempt at partial or total disruption of their territorial integrity or political unity. The Sixth Committee of the General Assembly had also confirmed that the principles of territorial integrity and political unity implied the non-recognition of any right to secession. Such a right did not exist in any instruments and was not in line with any United Nations practices, as the Secretary-General had stated in 1970.

80. Nevertheless, there had been attempts in the past, and also in recent times, to distort the real meaning of the right to self-determination. Ethnic, religious or linguistic minorities of racial groups living within the internationally recognized borders of an independent and sovereign State were invoking the right to self-determination in order to establish their own separate "State" with a view to seceding from the sovereign State. That was not only against international law, but it was also politically dangerous and absurd to widen the scope of the right to self-determination to include such minorities or other groups which, after all, were protected by a series of human rights provisions. If that principle were not accepted, it would hardly be possible for any modern independent and sovereign State to maintain its unity and territorial integrity. However, it was also unheard of to claim self-determination for an occupied part of the territory of a sovereign State from which the majority of the population had been expelled. Such a claim was contrary to the concept of national independence and had been firmly condemned by the Security Council. In the case of an occupied territory, it was because of the sovereign State's inherent right to self-determination that usurped liberty should be regained.

81. In general, it was through solutions based on respect for the right to self-determination that the restoration and promotion of human rights and fundamental freedoms of peoples who were still being denied them could be effected. Recent events had constituted a triumph for internal self-determination, but the world was still waiting to see its external signs and the abolition of all foreign occupation wherever it still existed. Self-determination did not create artificial walls of division, but caused their demolition, and it was to be hoped that that would one day be the case throughout the world without exception.

82. Mr. ABRAM (United States of America) said he fully concurred with the many speakers who had stated that the most blatant denial of self-determination was the hostile imposition of foreign rule. However, the withdrawal of a hostile army of occupation did not of itself guarantee self-determination, since brute force could be used equally well by home-grown tyrants. The establishment of a Government based upon the consent of the governed was the true sign of self-determination, which was in fact synonymous with majority rule. From the moral and legal standpoint, the consent of the governed was the only form of government that was compatible with the Universal Declaration of Human Rights and guaranteed the protection of fundamental freedoms. Periodic elections between contending political parties, a free press and a secret ballot were the guardians of self-determination and assured, in the words of the Universal Declaration of Human Rights, "the (individual's) right to take part in the government of his country, directly or through freely chosen representatives".

83. There was no doubt that the moral authority to make law in a State resided in the people who were governed, while the organization of free elections in an atmosphere encouraging the expression of opposing points of view was the only reliable test of majority rule, the only system that respected human dignity. One hundred and fifty years previously, Aléxis de Tocqueville had recognized that self-determination, the essence of representative democracy, existed when the Government was ruled by the laws of the majority and not by the whims of an individual or party. Whether it was called "Solidarity" or "People Power" as in Poland or the Philippines, that self-evident idea had marched through the world during the previous decade,

and the revolution that had begun in the 1980s had been in many places the triumph of self-determination. Such had been the case in Poland and in most of Eastern Europe and also in Argentina, the Philippines, Colombia, Brazil, Peru, El Salvador and, quite recently, Panama, Chile, Paraguay, Namibia and soon, it was to be hoped, in South Africa. All those countries had shown that man's desire to control his own destiny was stronger than any lash or prison and more enduring than any martial law, state of siege or torture. The Commission on Human Rights was duty-bound to congratulate those countries emerging from the long dark night of imposed authority.

84. The United States, which had never recognized the forcible incorporation of the Baltic States into the Soviet Union, had given long-standing and firm support to peaceful democratic change in Estonia, Latvia and Lithuania. It was for the peoples of those States to decide on the peace and direction of their progress towards self-determination. The United States sought no unilateral advantage in the changing situation in Eastern Europe, which, it was confident, posed no threat to peaceful co-operation in the region.

85. However, there were still many parts of the world where self-determination existed only in the dreams of the oppressed. Cuba and China had never held a plebiscite or a free election. The people of Puerto Rico had given the lie to the hypocritical statements made by the representative of Cuba, whose country constituted the last bastion of Stalinism in the world. The population of China obviously thirsted for democracy and self-determination. Free and fair elections were long overdue in North Korea, Albania, Cambodia and Viet Nam and the world was still waiting for the Soviet-installed Government in Afghanistan to organize free elections. The Commission should adopt a resolution deploring the continuing deprivation in some countries of that basic right to self-determination, the political expression of human autonomy.

86. In answer to the lengthy statements made by representatives of States which did not enjoy representative government, he pointed out that, on 7 May 1989, the Panamanian people, in elections universally recognized to be free and fair, had elected Guillermo Endara as President. In full view of the world, and under the scrutiny of teams of international observers, including former President Jimmy Carter, the Panamanian people had voted three to one to remove Manuel Noriega from power but, with the help of his thugs, he had immediately taken back by force what he could not obtain through democratic means. The world's democracies had condemned that violation of the right to self-determination and, on three different occasions, the Organization of American States had called on Noriega to respect the results of the elections as a valid exercise of self-determination by the people of Panama. One might wonder why Cuba and China had remained silent on that occasion and how those countries would explain the massive support given to the restoration of the rightful rulers of Panama. On 18 January 1990, 95 per cent of the population said in an opinion poll that Endara was their legitimate President.

87. The people of Panama was currently enjoying its right to self-determination, but, unfortunately, the same could not be said for the peoples of Cuba or of China. When the representative of China had expressed concern about the loss of life in Panama, he might have been asked why he had not shown the same concern for the loss of Chinese lives at the hands of the Chinese army in Tiananmen Square. In fact, Governments such as those of Cuba and China, which had never held free elections, were no more capable of

recognizing the right of self-determination abroad than they were at home. Nevertheless, it was to be hoped that Cuba would one day help bring democracy to places, rather than crushing it within its own territory and wherever it could abroad.

88. It could not be disputed that the United States' intervention in Panama had been consistent with its obligations under the Panama Canal Treaty and with its rights of individual and collective self-defence under the Charter of the Organization of American States and the Charter of the United Nations, which called on it to protect its citizens, of whom there were 35,000 living in Panama and in the Canal zone. No one disputed that Manuel Noriega's declaration of war against the Government of the United States had jeopardized the lives of thousands of Americans who were there to operate and defend a waterway used by the whole world.

The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.6/Add.1.

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Forty-sixth session

SUMMARY RECORD OF THE SECOND PART */ OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 1 February 1990, at 6.20 p.m.

Chairman: Mrs. QUISUMBING (Philippines)

later: Mrs. REGAZZOLI (Argentina)

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Question of the violation of human rights in the occupied Arab territories, including Palestine (continued)

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*/ The summary record of the first part of the meeting appears as document E/CN.4/1990/SR.6.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1990/3, 4 and 59; A/44/352 and 599)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1990/10, 11 and 58; E/CN.4/1990/NGO/8; and A/44/526)

1. Mr. COSTA LOBO (Portugal) said that 1989 had seen some important developments in situations in which the principle of self-determination had been largely ignored or subjected to serious limitations. Namibia was well on the way towards an independence based on the will of the people and foreign troops had been withdrawn from Afghanistan, while positive steps were being taken to solve the difficult situation in Cambodia.

2. All those developments confirmed the complexity and continuity of the right to self-determination. Decolonization, which had yet to be completed, had certainly constituted the most striking example of the application of the principle, but it had not exhausted it. The fact that the right to self-determination was enshrined in the two International Covenants on Human Rights proved that it was not just an accidental mechanism designed to deal with specific problems at a certain period in history but a principle genuinely needed for the protection of values of universal validity inherent in the human person.

3. A number of delegations, including his own, had commented on the nature and content of the principle and its relationship with other principles of international law at the previous session of the Commission, and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had already made two studies on the topic. The time had, perhaps, come for further reflection with a view to ensuring that the right to self-determination was applied correctly, transparently and effectively in the years to come.

4. The situations in which no progress had been made in applying the right since the Commission's forty-fifth session must include the case of East Timor. Several incidents that had taken place there in 1989 had drawn the attention of the international community to the frequency and gravity of the violations of human rights to which the people of East Timor continued to be subjected, largely as a consequence of Indonesia's refusal to respect the people's right to self-determination. In fact, no significant contribution could be made to the restoration of human rights in East Timor if its people's right to self-determination was ignored.

5. The only clear conclusion that could be drawn from the debates that had taken place in the various competent United Nations bodies, including the Commission, and from the resolutions adopted by them was that the people of East Timor was still being denied its right to self-determination. In order to counter the arguments put forward, Indonesia had merely referred to an act of self-determination alleged to have taken place in May 1976 in the form of a decision taken by an assembly of 37 persons. That decision had been expressly rejected by the United Nations General Assembly, which, in operative paragraphs 4 and 5 of its resolution 31/53, strongly deplored the persistent refusal of the Government of Indonesia to comply with the provisions of General Assembly resolution 3485 (XXX) and Security Council resolutions 384 (1975) and 389 (1976) and rejected the claim that East Timor had been integrated into Indonesia.

6. Being aware of the weakness of its position and hoping that time would blur the memories of what had occurred, Indonesia had also suggested that Portugal's attitude to the issue was motivated by colonialist or neo-colonialist considerations. It was true that East Timor had been a Portuguese colony but, in 1974 after the April Revolution, the Portuguese Government had accepted General Assembly resolution 1514 (XV) and had immediately begun the process of decolonizing its colonial territories. By the end of 1975 five of its six colonies had acceded to independence and only the fate of East Timor had remained to be decided.

7. Portugal had been arranging for its decolonization in full co-operation with the United Nations, in an atmosphere of total transparency towards all Member States, including Indonesia. In the process no State had accused Portugal of being lacking in good faith, and it would be difficult to understand how a country which had not placed obstacles to the decolonization of much greater and much richer territories could have tried to defend colonialist interests in East Timor. Difficulties had, of course, been encountered in the latter's decolonization, and Portugal had had its share in them, partly owing to the country's internal instability in 1975. However, the decolonization process in East Timor had been brutally interrupted in a far more serious way by Indonesia's invasion of the territory on 7 December 1975.

8. The reason why his Government was still concerned with the matter was that it had a responsibility to complete the decolonization of territories under Portuguese administration. The rights for which it was fighting were not Portuguese rights but the rights of a people in respect of which it had responsibilities under international law and General Assembly resolutions. To renounce those rights, or to show less interest in defending them, would not be a gesture of moderation or good will but an abdication of its responsibilities.

9. Portugal had always recognized the authority of the United Nations in the matter and had fully co-operated with the Secretary-General in the action which he had taken pursuant to General Assembly resolution 37/30. The current Secretary-General was to be commended on his efforts to find an overall solution for the East Timor problem. A solution to the problem of East Timor would soon be found if the primacy of the interests of the population and respect for its fundamental rights was accepted as a fundamental criterion. Such a solution would have Portugal's full support.

10. Mr. BENHIMA (Morocco) said that the unexpected upheavals that had taken place in the world in 1989, with their profound consequences for human rights, marked the beginning of a new century and successfully confirmed the aspirations of many peoples to exercise their right to self-determination. As much as the encouraging prospects that were taking shape in various regions of the world were a reason for rejoicing, anger and indignation were aroused by Israel's obstinate refusal, in defiance of international law, to grant the martyred Palestinian people its right to establish a State in Palestine and to organize its destiny in accordance with its aspirations to dignity, peace and security.

11. Over the past 20 years, many plans had been put forward in the search for a solution that would secure stability in the Middle East within the framework of a just and lasting freely negotiated peace. From the Rodgers plan to the Baker plan - to mention only the proposals made by Israel's unconditional friends - all formulae likely to lead to serious negotiations had been systematically rejected.

12. At the same time, the Palestinian people, which shared the common desire for peace, had clearly expressed its determination and made its contribution to the initiation of a sincere and constructive dialogue through its sole legitimate representative, the PLO, whose historical and courageous decisions had the support of the entire international community.

13. At the Summit Meeting of the Arab league held in Morocco in May 1989, the Arab countries had reaffirmed their attachment to a political solution that entailed Israel's complete withdrawal from all the Palestinian and other Arab territories occupied since 1967, including Al-Quds Al-Sharif Jerusalem; the recovery of the Palestinian people's inalienable national rights, including its rights to return to its own country, to self-determination, and to the establishment of its own independent State in Palestine; and the holding of an international Middle East peace conference with the participation of the five permanent members of the Security Council and of all parties to the conflict, including the representatives of the Palestinian State, with a view to reaching a global and just settlement of the conflict on the basis of the relevant Security Council resolutions and resolutions of other United Nations organs.

14. The acute sense of responsibility displayed by the Palestinian leadership and the continuation of the intifadah should be supported by the collective mobilization of the international community to ensure that peace in the Middle East did not remain mortgaged to Israel's Messiahnic mystique. Only thus could peace be restored in Palestine, where Israel's violent repression constituted a veritable insult to God and to his message.

15. Africa was preparing to celebrate Namibia's accession to independence. In that connection Morocco, which had contributed to the emancipation of the African peoples in many ways, was delighted that Security Council resolution 435 (1978) had been implemented in an atmosphere of great calm. It was to be hoped that Namibia's accession to independence would open the way to greater security and stability in Angola and the other Front-Line States.

16. In South-East Asia, the optimism generated by the favourable developments in the Cambodian conflict had given way to serious concern. It was to be hoped that the efforts made by the Ministerial Conference of the ASEAN countries at Jakarta and taken up by the Paris International Conference on Cambodia would lead to positive results and that the political will expressed by all parties would be reflected in the resumption of a promising dialogue.

17. Lastly, his Government hoped that a global political solution based on the free exercise of the right to self-determination, without foreign interference, would shortly be found to the conflict in Afghanistan, to whose people Morocco was bound by so many ties of religion and civilization.

18. Mr. LEFKOWITZ (United States of America) said that his Government was deeply concerned about the question of human rights in the occupied territories and believed that, as with all matters involving the rights of individuals and nations, it was impossible to discuss events in those territories in a vacuum. The proper context for discussing any aspect of the Arab-Israeli conflict was that of the search for a comprehensive peace settlement. It was destructive to the peace process when those with ulterior motives succeeded in turning the debate to their own ends. During the past few days a great number of statements under agenda item 4 had served, unfortunately, not to advance the cause of peace but rather to retard it. His Government believed that the principles set forth in the Universal Declaration of Human Rights should apply everywhere. Its concerns in the Middle East were humanitarian as well as political.

19. The United States was committed to the welfare of the Palestinian people, both the refugees and those who lived in the occupied territories. Since the birth of the State of Israel 40 years earlier, the United States had been by far the largest contributor to UNRWA, with total contributions exceeding $3 billion. It was appropriate, in that connection, to note that Israel had contributed more funds to UNRWA than any Arab nation. In addition, through private voluntary organizations, the United States had provided nearly $80 million to Palestinian residents of the West Bank and Gaza since 1975. Moreover, until July 1988 when the Government of Jordan had ended its development programme for the occupied territories, the United States had been a major contributor to that programme.

20. On the political side, his Government had continually sought to help the parties to forge a political settlement that would result in a lasting peace. Although that road had been fraught with difficulties, its perseverance, together with the courage of some Arab and Israeli leaders, had yielded tangible results, such as the Camp David talks and the peace treaty under which Israel had returned every square mile of Egyptian territory.

21. During the past 12 months, President Bush and Mr. Baker, the United States Secretary of State, had worked hard to develop a mechanism for a negotiated peace that would ensure Israel's security and also protect the rights of Palestinians. Mr. Baker's five-point plan for elections in the occupied territories, which had been endorsed by both the Israeli and Egyptian Governments, could, his Government believed, serve as a long-awaited and much-needed building block for a just and lasting peace and for ensuring the human rights of all the inhabitants of the occupied territories.

22. There had undoubtedly been violence in the occupied territories and, in that regard, had called for restraint by all parties. It recognized Israel's rights and obligations under the Fourth Geneva Convention to maintain order in the occupied territories, for the benefit of all its inhabitants, but it had opposed the use of excessive force to that end, as well as administrative detention and deportation. It continued to do so.

23. However, it must be recognized that Israel, unlike some of its neighbours, had generally taken immediate and public steps to investigate allegations of excesses and to correct them. Indeed, because Israel was a democracy, it had self-correcting mechanisms to redress such situations. Additionally, because Israel was a society that was both open and under siege, its mistakes were always displayed most publicly. The record of human rights

abuses in certain other Middle East countries was incomparably worse than in Israel; yet because those abuses were largely hidden from the world media, the public learnt of them only partially and with difficulty.

24. The violence and regrettable loss of life resulting from the rioting in Gaza and the West Bank were disfiguring to people - both Palestinians and Israelis - who had no alternative but to find a way to coexist in peace. His Government believed that all parties must exercise restraint and requested the members of the Commission to do likewise. Only by adopting an even-handed and temporate approach and demanding that human rights standards should apply equally to all parties would the Commission be able to advance the cause of peace and human rights.

25. Mr. STANEVSKI (Union of Soviet Socialist Republics) said that the United Nations had a commitment to promote freedom of choice and the right to self-determination. Bringing together the efforts made by peoples and harmonizing relations among them required that each people should have a real opportunity of preserving its independence, distinctiveness, language, culture and traditions. The right to self-determination was one of the principles on which international life was based and on which the future of our very varied but single and mutually interdependent world was being built. It was not just the good will expressed by the founding fathers of the United Nations when they had drawn up the Charter but an historical imperative of particular importance in the twentieth century.

26. The first situation currently requiring the Commission's attention was the fate of the Arab population of Palestine, which had been deprived of its capacity to exercise its right to self-determination by the Israeli occupation. His delegation hoped that, in preparing its decisions, the Commission would engage in a broad dialogue conducive to a settlement of the Middle East conflict.

27. The right to self-determination was also closely involved in the situation in southern Africa, where the apartheid régime had no future because it ran counter to the aspirations of the peoples of Africa and to the basic rules of life of the international community as a whole.

28. One of the most insidious ways of combating against freedom was the use of mercenaries. His delegation supported the work being done by the Special Rapporteur on that question. The international community had been provided with a serious weapon against the mercenary phenomenon in the form of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which needed to be given maximum effectiveness.

29. Considerable progress had been made along the road to self-determination, including the holding of elections under United Nations auspices in Namibia, and in the settlement of regional conflicts. Soviet troops had been withdrawn from Afghanistan but, if the right of the Afghan people to self-determination was to be fully secured, the Geneva Agreements on Afghanistan would have to be respected. That would permit a political settlement of the Afghanistan problem on the basis of national reconciliation and would guarantee the country's status as a peaceful, independent and non-aligned State. His Government was complying strictly with the Geneva Agreements and hoped that other Governments would do likewise.

30. On 26 September 1989, the withdrawal of Vietnamese forces from Cambodia had been completed, opening up favourable prospects for the attainment of national reconciliation and a lasting and balanced settlement of a protracted regional conflict. A series of proposals for the attainment of generally acceptable agreements on Cambodia had been put forward. His Government had already expressed its support for the proposals put forward by the Government of Cambodia; it also welcomed the initiatives by the Governments of Australia and Thailand. It was important that all interested parties should express their readiness to make compromises which took account of the realities inside and around Cambodia.

31. His Government had carefully reappraised the wrong decisions which it had reached in the past with regard to certain States, as was confirmed by its specific policy. It was, however, important that a similar policy should be pursued by other countries. Doctrines that restricted the sovereignty of other States, whatever their foundations, were unacceptable. The Soviet Union's position in respect of Panama had been clearly explained in the statement made by his Government on 22 December 1989.

32. For his Government, self-determination was not a purely external problem. The Soviet Union, a multinational State in the process of reorganizing its society, was experiencing its own internal interethnic complications, and even conflicts, on its way to the establishment of a new federal structure. It was repudiating the legacy of Stalinism and stagnation, under which the democratic principles of its nationalities policy had been rudely trampled upon. The task currently facing the country was the creation of a just and lasting union of peoples based on the principles of voluntary and equal partnership. In the light of historical experience, the Soviet Union was seeking to solve its problems, not by dictation and self-willed decision-making but through the parliamentary method of open discussion with the people.

33. Over the past ten years the growth of national self-awareness had intensified both in the Soviet Union and in many other countries. In addition to internal causes, such processes obviously had certain features in common. Consequently, his Government was interested in the experience of other countries - particularly multinational, federal countries - and was ready to borrow from them elements that had stood the test of time.

34. Soviet society was conducting an open, democratic, and at times bitter, debate on the various aspects of a federal organization of the country and on the nationalities problems. In the conditions of glasnost and pluralism of opinion, various approaches to the matter had been put forward and many proposals had been made. There were even extreme views that interpreted the right to self-determination in a one-sided and arbitrary manner by encroaching upon the principles of national and racial equality and human rights. As shown by experience in the Soviet Union and throughout the world, extremism and over-simplification led only to conflicts between nationalities, to suffering and death.

35. His Government considered that the implementation of the right to self-determination was not a once-only act but a complicated process of affirming national dignity and distinctiveness, of strengthening political independence, and of furthering economic and social progress. In its view, there were no grounds for casting doubt on the choice made by the Soviet

peoples several decades previously. The multinational Soviet Union had more than once emerged successfully from severe tests; in that respect it was sufficient to recall the Second World War. It had, however, to normalize relations between its nationalities by satisfying all the legal and valid development interests of the Soviet federation.

36. The Soviet Baltic Republics, like the other republics of the USSR, were currently engaged in affirming their authentic statehood and in establishing their genuine sovereignty. The goal was a union of free, lawful, democratic and socialist States having a high level of culture and self-government by the people, as was specifically advocated by the popular movements and the Communist and other parties in Lithuania, Latvia and Estonia.

37. The Baltic Republics were not only stating their aspirations; they were also successfully achieving them. They were already working in conditions of economic independence, establishing equal and mutually advantageous economic relations with other republics and with neighbouring foreign States. All three republics had introduced important amendments to their current constitutions and had prepared drafts of new constitutions. They had taken a series of other practical steps to affirm their genuine sovereignty.

38. In February and March, the first multiple-candidate elections would be held for the Supreme Soviets in the Baltic Republics, and new governments would be formed. The People's Deputies for the USSR from Latvia, Lithuania and Estonia were worthily representing their electors and defending the interests of their Republics at sessions of the Congress of People's Deputies of the USSR. The fate of the Baltic Republics was undoubtedly of interest not just to themselves but to the Soviet Union as a whole. The atmosphere of democracy and glasnost and the parliamentary way of solving problems provided a reliable basis for ensuring that domestic problems in the Soviet Union would be settled for the benefit of both the Union and all its constituent republics.

39. His Government was convinced that perestroika was creating real conditions for giving new content to the principle of the self-determination of nations. A clearer delimitation of the functions of the Union and of the republics would serve the purpose of extending the latter's rights, strengthening their sovereignty, self-government and independence, creating the requisite conditions for the development of their cultures and languages and removing the deformations of the past, as well as formulating rules for their exercise of the right to self-determination, including secession from the Union.

40. The all-round implementation of the right to self-determination was a constitutent part of the perestroika process. Its successful development would help to strengthen international stability, humanize international relations, and establish a climate of trust among States.

41. The Commission had made a substantial contribution to the work done by the United Nations to affirm the principle of self-determination. It embodied the universality of a multi-faceted world based on pluralism of opinion and values common to mankind. It ought to intensify its activities in defence of freedom of choice and the implementation of the right to self-determination.

42. Mr. PATEL (Pakistan) said that one of the most important achievements of the United Nations since the adoption of the Charter had been the recognition and progressive exercise of the right to self-determination. Faithful adherence to the principle of self-determination was essential to the pursuit of a peaceful, just, stable and humane world order. Pakistan had a particular commitment to the principle because, 42 years previously, it had itself achieved independence through the exercise of the right to self-determination. As a result of that commitment, it considered that it had a duty to extend its full support to peoples still under colonial and alien domination in order to enable them to become masters of their own destiny.

43. The world was undergoing a profound transformation. The East-West dialogue had eased international tensions and the confrontation of the past could well be replaced by a spirit of constructive competition and co-operation. A number of regional conflicts appeared to be yielding to the growing international resolve to settle disputes by peaceful means.

44. While some troubled areas in the world had witnessed an appreciable movement towards peace, others continued to be marked by strife. The protracted struggle of the Palestinian people against Zionist occupation and for the restitution of its national rights had won the admiration of the international community. His Government resolutely condemned the atrocities perpetrated to suppress the intifadah.

45. In defiance of the international community, Israel continued to remain in illegal occupation of Arab and Palestinian territories and had blocked all efforts to secure a peaceful resolution of the Middle East issue. Pakistan had always supported, and would continue to support, the just struggle of the Palestinian people. It was convinced that the solution of the Middle East problem would remain elusive without the total Israeli withdrawal from all occupied territories, including Al-Qud Al-Sharif (Jerusalem), and the restitution of the Palestinian people's right to self-determination and to an independent State of its own, with Jerusalem as its capital, under the leadership of the PLO, its sole legitimate representative.

46. The racist, minority, and illegal régime in Pretoria continued to practice the odious system of apartheid, leaving the long-suffering people of South Africa with no option but to intensify its struggle. His Government condemned apartheid and called for the imposition of comprehensive and mandatory sanctions against the Pretoria régime. It also supported the valiant struggle of the people of South Africa for the eradication of racial discrimination, for equality, and for the establishment of majority rule.

47. South Africa's illegal occupation of Namibia had represented an open defiance of the will of the international community. His Government was glad to see that the fierce struggle for independence of the people of Namibia, under the leadership of SWAPO, had finally borne fruit and that the day was approaching when, with the independence of Namibia, one of the last bastions of colonialism would fall. Pakistan, which was proud to be associated with the implementation of the independence plan under the aegis of the United Nations through its contribution of personnel to the United Nations Transition Assistance Group (UNTAG), was looking forward to the fast-approaching day when Namibia would take its rightful place among the nations of the earth.

48. In the recent past, foreign military intervention and occupation had resulted in a denial of the right to self-determination in Afghanistan and Cambodia. The heroic struggle of the people of Afghanistan had led to the withdrawal of foreign troops. The Geneva Agreements, which had provided the framework for that withdrawal, did not constitute a comprehensive settlement. An internal conflict continued to rage, and the millions of Afghans who had taken refuge in Pakistan and Iran would not return to their homeland until peace was restored.

49. The framework for the internal settlement had been provided by the United Nations General Assembly, which, in its resolution 43/20, had called for the establishment of a broad-based Government acceptable to the people of Afghanistan, the voluntary return of the more than 5 million refugees to their homeland, and the free exercise of the right to self-determination by the people of Afghanistan - elements essential to a comprehensive political settlement.

50. His Government reiterated its support for the General Assembly's repeated calls for the withdrawal of all foreign troops from Cambodia, so as to enable the Cambodian people to choose its own Government free from outside interference.

51. The need to solve the problem of Jammu and Kashmir had acquired added urgency in recent weeks. The demand of the peoples of those territories for the exercise of their right to self-determination had been met with extensive use of force, resulting in large-scale deaths and injuries which had caused deep sorrow to the people of Pakistan. His Government and people could not but express their deep concern about the situation. At a time when the aspirations of all people to freedom were finding expression everywhere and when repression had yielded to demands for self-determination, the massive resort to force by India against the people of Jammu and Kashmir stood out in stark contrast.

52. It was to be hoped that India would recognize that the only solution to the problem lay in the exercise of the right to self-determination by the people of Jammu and Kashmir. Pakistan was steadfastly committed to seeking a peaceful settlement of the Jammu and Kashmir problem on the basis of the relevant United Nations resolutions - which recognized the right of the peoples concerned to decide their own future - and in the spirit of the Simla Agreement.

53. Pakistan had always been in the forefront of efforts to promote international peace and security, and its people rejoiced in the world-wide triumph of democracy and freedom. The important political and economic developments currently taking place suggested that mankind was on the threshold of a new era, pregnant with opportunities that had never previously been dreamt of. His Government hoped that the process of negotiations, consultations and dialogue which had produced those salutory results would continue to steer the world towards an era of peace and prosperity.

54. Mr. FONDER (Belgium) recalled that, in the statement which it had made at the previous session, his delegation had expressed the hope that the situation in the occupied territories would improve, so that an end could be put to the vicious circle caused by their illegal occupation. Unfortunately, the situation had not improved but had worsened. The cycle of resistance and repression had intensified. The intifadah was in its third year. The

repression had become excessive and often inappropriate. The living conditions of the inhabitants were deteriorating and their rights were being violated. His Government deplored the concatenation of violent actions, whatever their source.

55. Belgium, together with its European partners, was in favour of a just and lasting solution that would bring peace to the Middle East. As far as self-determination was concerned, it fully subscribed to the position adopted by the European Council which affirmed the right of all States in the region, including Israel, to live within safe, recognized and guaranteed frontiers, and the right to justice for all the peoples in the region, which included recognition of the legitimate rights of the Palestinian people, including its right to self-determination with all that that implied.

56. At Madrid in June 1989, the European Council had welcomed the support given by the Arab League to the decisions taken by the Palestine National Council at Algiers to accept the relevant Security Council resolutions, which involved recognition of Israel's right to exist and renunciation of terrorism. At the same meeting, the European Council had urgently appealed to the Israeli authorities to put an end to restrictive measures, to apply Security Council resolutions 605 (1987), 607 (1988) and 608 (1988), and to respect the provisions of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention).

57. The human rights situation in the occupied territories had, in general, deteriorated, as was reflected by the growing number of casualties and the sufferings of the population. Specific mention should be made of detentions without trial, arbitrary arrests, the deportation of Palestinians, the closing of schools, the imposition of curfews, the use of plastic bullets, collective punishments, the demolition of houses, the confiscation of lands, and the imposition of restrictive economic measures. Such acts were clearly not conducive to pacification, and his delegation appealed for respect for the human rights of the Palestinians.

58. Mr. HARUN-UR-RASHID (Bangladesh) said that the application of the principle of self-determination had nurtured the birth of the vast majority of free and independent nations of the contemporary world. However, the process had yet to be crowned with complete success.

59. The unresolved problem of Palestine and the unmitigated sufferings of the Palestinian people resulting from the denial of their inalienable right to self-determination remained the biggest current tragedy. The determined struggle waged by millions of Palestinian victims to establish a homeland through the exercise of the right to self-determination had been recognized as legitimate. The Palestine Liberation Organization (PLO) had amply demonstrated its sincere desire for a settlement by accepting the relevant Security Council resolutions. Unfortunately, Israel had not matched that gesture of genuine flexibility.

60. His Government fully supported the just and heroic struggle of the Palestinian people, whose valiant intifadah was serving as a clarion call to mobilize world public opinion against a brutal suppression of freedom. Israel must give up all the occupied Arab territories, including the Golan Heights. His Government supported the early convening of an international peace conference, of which the PLO must be an equal and integral part. Solution of the Palestine problem was a prerequisite for peace in the Middle East.

61. The hateful system of apartheid continued to bleed South Africa, although some positive developments had recently taken place. It had become clear that Pretoria was unable to stifle the opposition even through the continued state of emergency, arbitrary arrests and detentions, and the use of the judicial system to eliminate peaceful protesters.

62. Against the oppressive measures available to the racist State, the people's valiant resistance was manifested through an imaginative array of acts of defiance by community and labour organizations, by women's, youth and religious groups, by blacks and by whites under the umbrella of the mass democratic movement. Internal and external pressure had to be increased in order to put a speedy end to the apartheid system.

63. Bangladesh had consistently complied with all the declarations and resolutions aimed at the eradication of apartheid adopted by the United Nations, the Movement of the Non-Aligned Countries, the Organization of the Islamic Conference (OIC) and the Commonwealth. It fully supported the call for the imposition of comprehensive and mandatory sanctions by the Security Council as the most appropriate, effective and peaceful way of bringing apartheid to an end and discharging the responsibilities of the United Nations for the maintenance of international peace and security, which were threatened by the apartheid régime.

64. As its representatives had demonstrated in all relevant forums, Bangladesh remained steadfast in its efforts to secure the total elimination of apartheid, which could not be reformed and could only be dismantled.

65. His Government was deeply committed to the United Nations Charter and to the principles of the sovereign equality of States, territorial integrity, the non-use of force, non-interference and non-intervention in the internal affairs of other States, the right of every nation to self-determination and the peaceful settlement of disputes.

66. In Afghanistan, the Soviet Union was to be commended on its commitment to the cause of peace, amply demonstrated by the withdrawal of its troops, which had created a favourable situation for a political solution. However, the sufferings of the Afghan people had not ceased. Millions of refugees, so generously received by Pakistan and Iran, had yet to return home, and the people of Afghanistan had yet to exercise its right to self-determination, free from outside interference by installing a government of its own choice.

67. In Cambodia, his delegation advocated a comprehensive political solution of the problem and reaffirmed its support for all positive initiatives to that end. The efforts of the Secretary-General and of all the 19 parties to the Paris Conference and the Jakarta Informal Meetings (JIM) had given rise to hopes for a breakthrough. His Government noted with great interest the outcome of the meeting on Cambodia held in Paris by the five permanent members of the Security Council on 15 and 16 January. Prompt steps needed to be taken to allow the people of Cambodia freely to determine its own future without outside interference.

68. His Government's total support for the people of Namibia had been unswerving. It had been an active participant in the Council for Namibia and took pride in the fact that Bangladeshi soldiers and civilians were serving with UNTAG. The tragic death of the leader of the Bangladesh military

observer group was not in vain, since it was vindicated by the ongoing process which would lead to the independence of Namibia, in the decolonization of which the efforts made by the Secretary-General and his staff were greatly to be appreciated.

69. Bangladesh had contributed to many United Nations funds for Namibia and for southern Africa and his Government was confident that, in South Africa as well as in Namibia, justice would ultimately prevail.

70. Mrs. REGAZZOLI (Argentina) took the chair.

71. Mr. CHAALAL (Observer for Algeria), said that, while his delegation welcomed any innovation designed to rationalize the Commission's work and improve its efficiency, it did not think it appropriate to consider simultaneously two agenda items as different as items 4 and 9. The decision to take those items together was a surprising one, and it would be difficult to conclude the debate on them within the scheduled period of time. He hoped that such an abnormal situation would not be used as a precedent.

72. The violation of human rights in Palestine and the occupied Arab territories undoubtedly constituted a tragic illustration of the denial of human rights in the world. The ordeal of the Palestinian people became more severe with every year that passed. The report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories strikingly illustrated the intolerable arbitrariness displayed by Israel through its implacable repression of the Palestinian population.

73. Deprived of their freedom and fundamental rights in their homeland, which had been under Israeli occupation for decades, every day the Palestinians experienced the ferocity of a repression which struck everyone without distinction. Through television the whole world had been able to realize, with horror and indignation, the terrible cruelty inflicted by the Zionist occupation forces. The repression had taken on an intolerable intensity since the beginning of the heroic intifadah of the Palestinian people, which was determined to put an end to Israeli occupation and to recover its sovereignty and independence at any cost.

74. In the past two years, hundreds of people had been killed, thousands wounded, and thousands more subjected to maltreatment, torture, collective punishments, administrative detention or arbitrary expulsion. The Arab populations of Golan and southern Lebanon had also to face the daily insults and exactions of the Zionist occupation forces.

75. In fact, the situation in the Israeli-occupied Arab territories was deteriorating every month and there was no indication of any new developments that might alleviate the fate of their inhabitants, given Israel's determination to impose its rule by brute force. The world unanimously acknowledged that the leadership of the Palestinian State had made remarkable efforts and had taken decisive steps in the search for a peaceful and just solution of the conflict.

76. Israel, however, was rejecting every opportunity of negotiating with the authentic and universally recognized representatives of the Palestinian people. Arrogantly ignoring world opinion and the resolutions adopted by

various United Nations organs, the Israeli Government was systematically flouting international morality and legality. Comforted by the impression of impunity given by the calculated hesitation of certain countries and the unconditional support of a great Power, it nourished the vain hope of imposing "its" solution by force and of bringing about its illusory scheme of a "Greater Israel" based on occupation, annexation and settlement in the occupied Arab territories.

77. Algeria considered freedom of movement to be a fundamental human right, but it could not agree that such a right could be exercised to the detriment of the no less fundamental rights of other persons or peoples. Receiving immigrants could in no way serve as a pretext for a policy of annexation and colonization, still less legitimize it.

78. The representative of a non-governmental organization seemed to think that he could justify Israel's crimes in the occupied Arab territories by making untrue allegations against Algeria. He should, however, realize that nothing could tarnish the Algerian people's epic liberation struggle, which had been, and would continue to be, one of the greatest moments in the history of decolonization.

79. Mrs. LYAGOUBI-OUAHCHI (Observer for Tunisia) said that the most flagrant act of injustice in modern times had been committed in the Middle East, where the valiant Palestinian people was still struggling against the Israeli occupation forces that had usurped its land and instituted a reign of terror in which the most sophisticated weapons were used against unarmed civilians. The report of Amnesty International deplored the increasing acts of violence in which the Israeli troops were engaged in their attempts to suppress the Palestinian uprising. More than a thousand persons had been killed and 50,000 wounded since the beginning of the uprising, which was entering its third year. However, those acts of repression had failed in their objective; they had, in fact, strengthened the Palestinian people's determination to recover its land and live in freedom and dignity in its independent State.

80. In accordance with the will of the international community and the Charter and resolutions of the United Nations, Israel should put an end to the violations that its forces were committing against the civilian population of the occupied territories. Israel should also refrain from impeding international endeavours to achieve a peaceful settlement of the dispute and should cease its violations of the legitimate right of the Palestinians to self-determination and the right of those who had been forced to leave to return to their own land. The Israeli authorities should also abandon their policy of settling Jewish immigrants in the occupied Arab territories, in defiance of the international community, and should refrain from the use of military force to impose their will on the region, in view of the threats that such action posed to world peace and security.

81. There was a need for an intensification of joint international endeavours to achieve a just and comprehensive settlement that would take account of the interests of all the parties concerned, including the Palestine Liberation Organization (PLO), the sole legitimate representative of the Palestinian people.

82. The declaration of the establishment of the State of Palestine, which had been recognized by the majority of States Members of the United Nations, was a

clear indication of the soundness of the political approach that had been adopted by the Palestinian leadership. In the circumstances, the international community should endeavour to convene an international peace conference on the Middle East, under United Nations auspices, at the earliest possible opportunity.

83. Mr. OMAR (Observer for the Libyan Arab Jamahiriya) said that massive violations of all the universally recognized human rights were being committed daily in the occupied Arab territories. The emergency regulations, which the United Kingdom occupation authorities had promulgated in 1945, were utilized and developed by the Zionist intruders as a means of restricting freedom of movement and employment, confiscating large areas of Arab-owned land and deporting and detaining citizens without charge or trial. In short, they were being used to justify all forms of oppression, violence, collective punishments and intimidation in the face of the heroic Palestinian uprising. The Israeli Knesset was currently considering a bill under which the military and police authorities would be empowered to detain any citizen on mere suspicion and to enter and search any premises and confiscate any documents, money or other objects found therein.

84. A flagrant example of those practices had occurred at the town of Beit Sahour near Bethlehem. When the townspeople had protested at the manner in which the occupation authorities were collecting taxes from Arabs in order to oppress and kill them and confiscate their land and water resources, the town had been invested by troops and tax-collectors, who had assaulted people and seized their property. However, when they attempted to sell that property by public auction, the Mufti of Jerusalem had issued an edict prohibiting its purchase by Muslims. Another example was the violation of the right to education. All the schools and universities in the Palestinian territories remained closed by order of the Israeli authorities, who were seeking to deprive the Palestinians of education and thereby induce them to leave their homeland.

85. Israel's intentions were evident, in view of the fact that it had begun to implement a plan for the settlement of 750,000 Jewish immigrants over the next five years, thereby increasing the number of settlers in the West Bank and Gaza to one million persons by the year 2000. Accordingly, the Commission on Human Rights should adopt a position in keeping with the magnitude of those violations, since the policy of double standards that had been imposed upon it by the hesitation or opposition of some of its members could detract from its credibility.

86. Although his delegation fully appreciated the commendable role that the Commission was playing in the promotion of respect for human rights, it nevertheless felt that there was a need for a less selective approach to violations of those rights. The settlement of thousands of Jews in occupied Palestine constituted an invasion, in the full sense of the term, which was unprecedented in the history of mankind. No people could be permitted to exercise its rights at the expense of the rights of others.

87. It was unjust that the international community should welcome the progress that some peoples were making towards democracy and self-determination while turning its back on the Palestinian people, which was also struggling to exercise its right to self-determination. The Palestinian people, like the people of South Africa, should be helped in its endeavours to

exercise its rights and a firm stand should be taken against the racist policy that was preventing the Palestinians from returning to live in peace in their country, while priority was given to the rights of immigrants.

88. Mr. GEGHMAN (Observer for the Yemen Arab Republic) said that it was inconceivable that the desire for freedom and the will to rebel against oppression and injustice should be commended and supported in one part of the world and deplored and regarded as a punishable offence in another. Human rights were indivisible and should be enjoyed by the Palestinian as well as the Romanian people and by the population of East Jerusalem on a footing of equality with their counterparts in East Berlin. History showed that all peoples had, at some stage, been obliged to struggle and make sacrifices for the achievement of their freedom.

89. Two hundred years previously, a group of unarmed Christian revolutionaries at Boston, with a firm belief in God and in the justice of their cause, had raised the slogan of "no taxation without representation" and had won widespread admiration and support for their humanitarian principles and values, which had been incorporated in constitutions throughout the world. The unarmed Christian population of the town of Beit Sahour, with an equally firm belief in God and the justice of its cause, had recently raised the same slogan, implying the right to self-determination and government of the people, by the people, for the people.

90. It was unfortunate that the admirable struggle for freedom in which the peoples of Eastern Europe had engaged diverted attention from the equally admirable Palestinian uprising in which the oppressed population was using the only weapons available to it, namely the throwing of stones and a refusal to pay taxes levied under legislation which had not been promulgated by its elected representatives.

91. The occupation forces had responded to that movement of protest by firing on unarmed civilians, more than a thousand of whom had been killed. They had used tanks to demolish homes and truncheons to break the bones of demonstrators. Tens of thousands of persons had also been incarcerated in detention centres, where they were being subjected to the most odious forms of torture and ill-treatment.

92. A single State, namely that which promulgated the Declaration of Independence and adopted the principles of human rights, self-determination, freedom and government of the people by the people for the people, had the ability to ensure the triumph of justice by preventing its aid from being used for the import or manufacture of weapons, the suppression of freedom of expression, the annexation of Palestinian land and the establishment of settlements for immigrants from the Soviet Union to whom it had closed its own doors.

93. In fact, there was cause for optimism concerning a revival of concern for human rights in that State in view of the recent events in Eastern Europe, from which large numbers of immigrants were seeking a better life in Israel which, hopefully, would not be achieved at the expense of the Palestinian people. The renewed concern for the principles of freedom and democracy in Europe would inevitably prove contagious and the mounting tide of concern for human rights would not be stemmed at the borders of Palestine.

94. In the same way as liberation organizations had proliferated to combat classical colonialism, organizations for the defence of human rights were currently being established throughout the world. It was to be hoped that, in the new climate of awareness which the Commission had helped to create, greater pressure would be brought to bear on the forces that were still denying human rights, rejecting calls for peace and persisting in their policy of repression, torture and the establishment of settlements with a view to the creation of a "Greater Israel" at the expense of the freedom and legitimate rights of the Palestinian people and in defiance of the principles and values of the international community and international law.

95. In view of that challenge to international détente and the triumph of human rights, the Commission should adopt its resolutions on Palestine in a spirit of consensus, as a token of the international community's determination to prevent violations of its code of conduct and in recognition of the Palestinian people's right to live in peace in its own land.

96. Mrs. COLL (Observer for Ireland) said that, by the very fact of occupation, the inhabitants of the Arab territories illegally occupied by Israel since 1967 were deprived of their right to self-determination. Over the decades, that situation had given rise to a range of other human rights violations. Since the beginning of the Palestinian uprising in December 1987, her Government had watched with mounting concern the repressive actions of the Israeli authorities, who seemed determined to enforce the status quo in the occupied territories. The escalation of human rights abuses in that period was all the more distressing because no end appeared to be in sight.

97. Her Government had expressed its concern repeatedly, in its own name and in conjunction with its partners in the European Economic Community, both in public statements and in private contacts with the Israeli authorities. The situation was tragic for the Palestinians who were its victims. Her Government's concern extended to the damage which Israel, as the author of the situation, was doing to itself, not least in terms of its reputation as a country which respected the human rights of its subjects. Ireland appealed to Israel to reflect on what was being said in the current debate by friends of Israel who were also friends of the Palestinians, and to consider whether her own security interests would not be better served by respecting the human rights of the Palestinians.

98. Ireland rejected all recourse to violence from whatever quarter it came. International attention had been drawn once again to the issue of the use of excessive force by the Israeli authorities. The unjustified use of generalized violence against hundreds of people during authorized peaceful demonstrations in Jerusalem on 29 and 30 December had resulted in injuries to scores of people, including Israelis, Palestinians and citizens of the European Economic Community.

99. The incident inevitably provoked questions as to whether the proposed elections in the occupied territories would be so organized as to constitute a meaningful step towards a political solution. In conjunction with the restrictions previously placed on Faysal Husseini and his subsequent arrest and with a new wave of arrests of Palestinians in the occupied territories, it was at the very least not conducive to the climate of confidence necessary for any negotiation.

100. Amnesty International's alarming report of 3 January had focused on the hundreds of Palestinian deaths which had resulted, since December 1987, from the use of firearms by Israeli forces. It had found that over 560 Palestinians, some 130 of them not more than 16 years old, had been shot dead and that still others appeared to have died from beatings or in incidents involving the use of tear gas.

101. The Consuls-General in Jerusalem of the 12 member States of the European Economic Community had also drawn attention to the progressive extension of the scope of the guidelines on the use of firearms, which appeared to allow the use of live ammunition to arrest suspects, a category which seemed to include masked people, and in general to permit the killing of persons engaged in activities which did not necessarily endanger life. Subsequent to the events of 29 and 30 December and to the Amnesty International report, the European Economic Community had once again expressed its concern for the human rights of the Palestinians in the occupied territories. The Community had specifically appealed to Israel to cease using excessive force to put down demonstrations and other manifestations of the uprising, to ensure that law enforcement officials did not exceed their powers, and to review urgently the guidelines on opening fire. She reiterated that appeal.

102. Israel's response to the Palestinian uprising had taken other forms which were inadmissible because they infringed basic human rights. Her Government rejected the widespread practice of administrative detention, which appeared to have been adopted in order to circumvent the safeguards of the criminal justice system. Its use against precisely those Palestinian leaders who were trying to guide the Palestinian population of the occupied territories by non-violent means towards a just peace with Israel was particularly counter-productive and short-sighted. The expulsion of Palestinians from their homes and their deportation outside the occupied territories violated their most elementary human rights. Ireland called upon Israel to abandon that practice and to respect the relevant Security Council resolutions.

103. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) was applicable to the occupied territories. Her Government rejected all practices by the occupying authorities which violated that Convention, notably collective punishments such as curfews, the sealing and demolition of houses, and economic sanctions. The case that had occurred some months previously in which the entire village of Beit Sahour had been cut off and then its inhabitants had seen their houses ransacked and their property confiscated represented collective punishment on a new and totally unacceptable scale. It must not recur.

104. Equally disturbing was Israel's failure to fulfil its obligations as occupying Power in such basic areas as health and education. The Heads of Government of the 12 member States of the European Economic Community, meeting at Strasbourg on 9 December 1989, had singled out those omissions in particular when deploring more generally the continuous deterioration of the situation in the occupied territories, which seriously affected the living conditions of the people, compromised in a lasting fashion the future of Palestinian society, and prevented the economic and social development of the occupied territories.

105. They had expressed their determination to increase substantially their aid to the occupied territories, committing the Community to continue and increase its aid to the Palestinians through UNRWA and establishing as an objective the doubling of the Community's direct aid in the period 1990-1992. By contributing to the economic development of the occupied territories and by its efforts in the areas of health and education, as well as by support for local Palestinian institutions, the Community intended to help preserve the common future of the Palestinian people.

106. All aspects of that dossier were currently being followed up by the Community and its member States. Ireland would spare no effort to smooth the implementation of the Community's aid programme. As the current holder of the Community Presidency, it would endeavour to enlist the co-operation of the Israeli authorities as necessary to that end.

107. The reopening of the universities in the occupied territories would have an immediate and positive impact as a confidence-building measure. Their continued closure, on the other hand, would not be understood. Her Government was concerned lest a generation of Palestinian students should miss out on the right to education. It was also concerned that its bilateral co-operation with Bethlehem University should not lapse before it could bear fruit. It urgently reiterated its appeal to Israel to reopen the universities immediately and to allow all schools to function normally in the future.

108. The strength of public opinion on that and related human rights issues in Ireland and the other countries of the Community was reflected in resolutions adopted by the European Parliament in December 1989 and January 1990. The democratic Governments of the member States of the Community would ignore such public opinion at their peril.

109. Her concentration on the human rights dimension of the situation in the occupied territories did not reflect any diminution of Ireland's commitment to do all it could to further progress towards a political solution. Her Government wanted the proposed Israeli-Palestinian dialogue to get quickly under way. It must involve the PLO in a meaningful way and constitute a first step towards a comprehensive settlement, for which there was no substitute.

110. The position of the Governments of the European Economic Community was reflected in the Madrid Declaration, which remained fully valid. It was gratifying to note that the principles enunciated a decade earlier at Venice as the basis for a comprehensive settlement - security for Israel and self-determination for the Palestinian people - had in the intervening years been very widely embraced, notably by the Palestine National Council in November 1988, whose acceptance of the relevant Security Council resolutions had, in turn, been supported by the Summit Meeting of the Arab League at Casablanca in May 1989. Pursuant to those significant policy developments, the European Council at Madrid had called upon the Arab countries to establish normal relations of peace and co-operation with Israel and had called on Israel to recognize the Palestinian people's right to self-determination.

111. The moment of opportunity would not last indefinitely. Buying time was not enough. Moreover, recent suggestions that immigrants to Israel might be settled in the occupied territories were quite unacceptable. If followed, they would change the character of the territories. Her Government rejected

all measures designed to modify the physical character, demographic composition, institutional structure and status of the occupied territories. The acquisition of territory by force was clearly inadmissible under the United Nations Charter and had been rejected in the case in point by the Security Council. The Jewish settlements in the occupied territories, including East Jerusalem, were illegal under international law. The Governments of the Community appealed to Israel to observe its international obligations and not to compound the difficulties in the way of bringing peace to the region.

112. Mr. ALFONSO MARTÍNEZ (Cuba), speaking in exercise of the right of reply, said he agreed with the United States representative that the withdrawal of an army of occupation did not constitute an ultimate guarantee that the right to self-determination of the country under occupation would be respected. It was, however, absolutely clear that a country whose territory was occupied by the troops of another country could not exercise its right to self-determination. Such was the case of Panama.

113. In his statement, the United States representative had appeared to justify the invasion of Panama by alleging the defence of certain interests like citizens' lives and the Canal. None of those could take precedence over the basic principle of the United Nations Charter, which declared the use of force, or the threat of the use of force, to be inadmissible in international relations.

114. A right to self-defence, individual or collective, had been asserted, but the United States representative had omitted to state that Article 51 of the Charter required that, for the right of self-defence to be exercised, an armed attack must first have taken place. Panama was at currently under indefinite military occupation. The United Nations had always maintained that, in such circumstances, all the human rights of the inhabitants of the occupied territory were being denied. It was a pity that the Commission was not in a position to hear the Panamanians who had died in San Miguelito and elsewhere in Panama, or those currently in concentration camps or subjected to interrogation by the occupying forces.

115. The United States representative had arrogantly questioned the representativeness of delegates to the Commission. He could rest assured that in Cuba there had been elections - inexpensive ones at that - in which the proportion of electors actually voting had been much higher than in most elections in the United States of America.

116. Cuba did not wish to pass judgement on the elections that had taken place in Panama - that was a matter for the Panamanians - but it was clearly wrong that the United States Government should have declared them to be fraudulent two months before they had been held. The United States of America was acting like a world policeman. For example, in an act of piracy committed in international waters, it had recently attacked a Cuban merchant vessel, endangering the lives of its crew.

117. Mr. ZHANG Yishan (China), speaking in exercise of the right of reply, said that during the debate his delegation had referred to the problem of Panama, which constituted an example of the brutal violation of the right to self-determination. In fact, the General Assembly had adopted, by an

overwhelming majority, a resolution condemning the armed aggression of the United States of America against Panama. The Chinese delegation had merely reaffirmed the spirit of that resolution.

118. The United States representative had, nevertheless, attacked China. In view of the time factor, he did not intend to respond to all the attacks point by point but, whatever the pretext put forward by the United States representative to justify his country's action, the fact remained that United States troops had occupied Panama. Like other members of the international community, China hoped that the United States of America would implement General Assembly resolution 44/240.

The meeting rose at 9 p.m.